

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**KONDA GILBERT,**

Plaintiff,

v.

**CIRCLE K STORES, INC.,**

Defendant.

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No. \_\_\_\_\_

**NOTICE OF REMOVAL**

Without waiving any available defenses, including, without limitation, lack of personal jurisdiction, improper venue, statute of limitations, insufficient process, or insufficient service of process, Defendant Circle K Stores, Inc. (“Circle K”), by and through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby files this Notice of Removal of the above-described action to the United States District Court for the Northern District of Georgia, Atlanta Division, from the State Court of Gwinnett County, Georgia where the action is now pending and states as follows:

1. Plaintiff, Konda Gilbert (“Plaintiff”), commenced this action in the State Court of Gwinnett County, Georgia on July 27, 2023 and process was served on Circle K on August 7, 2023. A copy of Plaintiff’s Complaint setting forth the claim for relief upon which the action is based was first received by Circle K on

August 7, 2023. Thus, removal is timely.

2. This is a civil action for damages arising out of alleged injuries sustained by Plaintiff in a trip and fall incident on May 1, 2022 at the Circle K gas station located at 8144 GA-16, Senoia, Georgia 30276.

3. The United States District Court for the Northern District of Georgia, Atlanta Division, has jurisdiction by reason of the diversity citizenship of the parties. 28 U.S.C. § 1332.

4. This is a suit between citizens of different states. At the time she commenced this action and at all times thereafter, Plaintiff was and continues to be a citizen and resident of the State of Georgia.

5. Circle K is a Texas corporation with its principal place of business in Arizona. Therefore, Circle K is a citizen of Texas and Arizona and not a citizen of Georgia.

6. In her Complaint, Plaintiff claims to have incurred “medical expenses in the amount of \$102,632.34” and “lost wages and a diminished capacity to earn in the amount of \$12,393.47” as a “direct and proximate cause of [Circle K’s] negligence.” (Compl. ¶¶ 19-20). Thus, the matter in dispute exceeds the jurisdictional threshold of \$75,000.00, exclusive of interests and costs.

7. A copy of all pleadings and Orders served upon Circle K is filed with this Notice and attached hereto as **Exhibit A**.

8. Circle K will give written notice of the filing of this Notice as required by 28 U.S.C. § 1446(d).

9. A copy of this Notice will be filed with the Clerk of the State Court of Gwinnett County, Georgia as required by 28 U.S.C. § 1446(d).

**WHEREFORE**, Circle K requests that this action proceed in this Court as an action properly removed to it pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

This 31st day of August, 2023.

Respectfully submitted,

**CARR ALLISON**

By: /s/ Sean W. Martin  
**SEAN W. MARTIN, GA BAR #474125**  
**STEPHEN A. SWANSON, GA BAR #759751**  
*Attorneys for Defendant Circle K Stores, Inc.*  
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**CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(D), I hereby certify the foregoing document complies with the font and point selections permitted by Local Rule 5.1(B). This document was prepared on a computer using Times New Roman font in 14 point.

This 31st day of August, 2023.

By: /s/ Sean W. Martin  
**SEAN W. MARTIN, GA BAR #474125**  
**STEPHEN A. SWANSON, GA BAR #759751**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Kathryn B. Reddy  
Jan P. Cohen  
Kenneth S. Nugent, PC  
4227 Pleasant Hill Road, Bldg. 11  
Duluth, GA 30096

**CARR ALLISON**

By: /s/ Sean W. Martin  
**SEAN W. MARTIN, GA BAR #474125**  
**STEPHEN A. SWANSON, GA BAR #759751**